

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MONADNOCK CONSTRUCTION, INC.,

Case No.: 16 CIV. 00420 (JBW)
ECF Case

Plaintiff,

-against-

WESTCHESTER FIRE INSURANCE
COMPANY,

Defendant.

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WESTCHESTER FIRE INSURANCE
COMPANY,

Third-Party Plaintiff,

-against-

GLASSWALL, LLC, UGO COLOMBO, and
SARA JAYNE KENNEDY COLOMBO,

Third-Party Defendants.

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**DECLARATION OF JOHN J. SULLIVAN IN SUPPORT OF WESTCHESTER FIRE
INSURANCE COMPANY'S REQUEST FOR JUDICIAL NOTICE OF THE APRIL 30,
2018 ORDER DISMISSING WESTCHESTER AS A DEFENDANT IN THE
CONSOLIDATED FLORIDA LAWSUITS IN WHICH THE PARTIES IN THIS CASE
ARE ALSO PARTIES**

John J. Sullivan, Esq., under 28 USC § 1746, declares under the penalty of perjury as
follows:

1. I am an attorney for Defendant/Third-Party Plaintiff, Westchester Fire Insurance
Company ("Westchester"), in this Action. I have been personally involved in this litigation since
its inception and am fully familiar with the facts and circumstances of this dispute. I am also
fully familiar with the facts and circumstances of three cases consolidated in the Circuit Court of

the Eleventh Judicial Circuit of Florida (“Florida Consolidated Cases”), Case Nos. 15-06405-CA 44, 14-05447 CA 44, and 14-02090 CA 44, which involve the same parties as this Action.

2. I submit this declaration in support of Defendant Westchester Fire Insurance Company’s Request for Judicial Notice of the April 30, 2018 Order Dismissing Westchester as a Defendant in the Consolidated Florida Lawsuits in Which the Parties in this Case Are Also Parties.

3. The Honorable William L. Thomas, the Circuit Judge presiding over the Florida Consolidated Cases, issued the April 30, 2018 Order (“Order”). The Order granted Westchester’s motions to dismiss each of the Florida Consolidated Cases on the basis that the mandatory forum selection provision in the Agreement of Indemnity (executed by Ugo Colombo, Sarah Jayne Kennedy Colombo and Glasswall, LLC) requires litigation concerning Westchester’s bonds, the bonded projects, and the Agreement of Indemnity to occur in the courts of New York. A copy of the Order is attached as Exhibit A to this Declaration

4. The Order states that the court granted Westchester’s motions for the reasons set forth on the record at the April 30, 2018 hearing on Westchester’s motions. A copy of the transcript of that hearing is attached as Exhibit B to this Declaration.

5. The time to file a notice of appeal of the Order granting Westchester’s motions expired on June 1, 2018. Therefore, the Order is final.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: June 6, 2018

s/John J. Sullivan
John J. Sullivan
Attorney for Westchester Fire Ins. Co.